



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

x

OLSEN L. KEY, JR., : 05 Civ. 10461 (SHS)

Plaintiff, :

-against- : ORDER

WARDEN BRIAN FISCHER, ET AL., :

Defendants. :

x

SIDNEY H. STEIN, U.S. District Judge.

On September 4, 2007, Magistrate Judge Gabriel W. Gorenstein issued a Report and Recommendation recommending that defendants' motion to dismiss be granted and plaintiff be given leave to file a second amended complaint in the event he wishes to pursue a retaliation claim. No objections by any party have been filed to date.

After a *de novo* review of the Report and Recommendation, the Court adopts the recommendation of Magistrate Judge Gorenstein to dismiss this action. Accordingly, for the reasons set forth in the Report and Recommendation dated September 4, 2007,

IT IS HEREBY ORDERED that defendants' motion to dismiss is granted. Plaintiff shall have until November 12, 2007 to file an amended complaint to pursue a retaliation claim if he wishes to do so.

Dated: New York, New York
September 28, 2007

SO ORDERED:



Sidney H. Stein, U.S.D.J.